

Boone Count Board of Zoning Appeals
January 23, 2013 – 7:00 p.m.
Lamar Meeting Room-Boone County Government Building

Members attending: Sharon Walker, Alan Wilhoite, June Nickels, Clinton Taylor and Terry Brandenburg

Staff attending: Rachel Cardis, Bob Clutter and Carla Hedrick

A. Administrative Issues:

1. June Nickels opened the meeting at 7:00 p.m. by leading the pledge of allegiance and followed by introductions.

2. Determination of Quorum: 5 of 5 members present

3. Election of 2013 Board Officers:

Terry Brandenburg nominated June Nickels for Chairman and Alan Wilhoite seconded the motion. There were no other nominations. Motion carried 4-0, with June abstaining.

Alan Wilhoite nominated Clinton Taylor for Vice-Chairman with Sharon Walker seconded the motion. There were no other nominations. Motion carried 4-0, with Clinton abstaining.

4. Approval of Minutes for December 19, 2012:

Terry Brandenburg motioned to approve the minutes for the December 19, 2012 meeting. Motion was seconded by Alan Wilhoite. Motion carried 4-0, with June abstaining.

5. Approval of Agenda:

No changes at this time

B. Old Business Public Hearings

None at this time

C. New Business Public Hearings

1. 12CE-7V-244 (12CE-7-244) Chris Badger for Mark Gradison; Special Exception with Variance (Variance eliminated with revised petition presented)

Rachel Cardis read the staff report. Bob Clutter clarified the denial in the staff report is due to the driveway access (they originally presented using a shared drive with the existing drive). For the record Terry Brandenburg is recusing himself from this petition due to the proximity to his own property.

Sharon Walker questioned if the petitioner meets Criteria 1 due to the last staff comment in the staff report under Criteria 1. *Rachel* explained she was trying to keep the access under Criteria 4.

Chris Badger came forward to present the request. He stated the 3:1 rule is a moot point since they have 23 acres to work with, even though they do not meet the rule. They own the house in front and want to keep it and they want to build a new house in the back. They plan on building a \$700,000 home. They have horses and want access to the barns and pastures. He stated they showed 2 options for their plan; 1) with a shared drive and 2) with a separate drive on the second parcel. *Bob* commented that the Board cannot vote on the item twice, it has to be one way or the other. *Rachel* suggested they table to next month and come back with the revised drawings and give everyone time to review them, the State, the staff and the Board. *Chris Badger* submitted an amended site plan and requested to use the revised site plan as the amended petition. *Chris Badger* would like to move forward with the revised petition of one drive per lot. *Rachel* still feels it would be better to table until all parties had time to review the revision. *Mr. Badger* does not feel it should be delayed any longer. He stated the State will have to review it anyway before issuing a driveway permit. *Bob* commented that any motion to approve would need to be contingent upon the State's approval of the driveway. *Chris Badger* explained they wanted to use the same drive to make it easier and to save some expense.

Clinton Taylor commented he is against using the same drive and creating flag lots. *Bob* reminded the board that the petitioner has an amended petition with a separate drive for the new home. *Rachel* commented she is concerned about the safety factor with the dip in the road near the parcel. *Clinton* commented that we still have a house behind a house.

Pam Ebert came forward with questions of type of home to be built and she is in favor of them using the same drive to eliminate more cuts on SR 39.

Mark Gradison came forward, he is the builder, and stated he would be willing to answer any questions and help move this along.

No one else came forward. *June* closed the public hearing and opened it to the board.

Clinton commented he is not in favor of using the existing drive and the flag lot. *Rachel* clarified they have an amended petition and the lot is a legal non-conforming lot created prior to the Ordinance change in 2006 (a grandfathered lot of record). *Alan* has no issues as long as it has its own drive. *Sharon* appreciates the clarification of the legal non-conforming lot. *Chris Badger* explained the drive will be a Class 3 drive per the State requirements.

June Nickels made a motion to pass 12CE-7-244 with the following conditions: 1) the approval is contingent upon approval from INDOT; 2) applicant shall sign a Right to Farm agreement; 3) applicant shall a County Drainage agreement; 4) Applicant shall show a 40' buffer zone around the perimeter of the property that borders agricultural practices and 5) ILP issuance is contingent upon final TAC approval. Motion was seconded by *Alan Wilhoite*. Motion carried 4-0, with Terry abstaining. (The variance was eliminated due to the amended petition)

2. 12JE-7-249 Brian Gott; Special Exception

Rachel Cardis read the staff report and clarified the revision of acreage from 3.2 to 3.8 to meet our requirements.

Brian Gott came forward to present the petition. Bob Clutter asked if the applicant was aware of the legal open ditch and the building setback requirements and Brian Gott responded he did. He also stated he has the site plan done showing the 75' setback and the 40' AG buffer. No one else came forward. June closed the public hearing and opened it to the board.

Terry Brandenburg made a motion to approve 12JE-7-249 with the following conditions: 1) applicant shall sign a Right to Farm agreement; 2) applicant shall sign a County Drainage agreement; 3) applicant will show a 40' buffer zone around the perimeter of the property that borders agricultural practices and 4) the ILP issuance is contingent upon final TAC approval. Motion was seconded by Alan Wilhoite. Motion carried 5-0.

3. 12CE-7-185 Joan Gardner; Removal of Rescinded Special Exception

Rachel Cardis explained there had been a miscommunication between the engineer and Ms. Gardner. Bob Clutter stated that we approved the rescinded special exception contingent upon receiving a written request to do so; but we have not received that written request therefore we can motion to make the rescinded approval null and void.

Terry Brandenburg made a motion to make the rescinded approval null and void due to the absence of the written request to rescind the original special exception approval; therefore, the original special exception stands as approved. Motion was seconded by Alan Wilhoite. Motion carried 5-0.

D. Reports, Resolutions, Communications and General Discussion

None at this time

With no further business, Clinton Taylor moved to adjourn at 7:50 p.m. Terry Brandenburg seconded the motion. Motion carried 5-0.